

Rules Amending Title 11
Hawaii Administrative Rules

1. Chapter 219 of Title 11, Hawaii Administrative Rules, entitled "Parking for Persons with Disabilities" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 219

PARKING FOR PERSONS WITH DISABILITIES

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Historical Note: This chapter 11-219 is based substantially upon chapter 19-150. [Eff 12/31/84; am and comp 4/18/94]

The 4/18/94 compilation repealed §19-150-15.

§11-219-1 Purpose and scope. The purpose of these rules is to establish a uniform parking system to enhance access and the safety of persons with disabilities which limit or impair their ability to walk, and to conform to 23 CFR Part 1235, chapter 291, part III, HRS. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-1, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-2 Interpretation. These rules shall be construed liberally and consistent with the purpose stated in section 11-219-1. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-2, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-3 Severability. These rules are declared to be severable and if any portion or the application thereof to any person, circumstance, or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons, circumstances, or property shall not be affected. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-3, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-4 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Access aisle" means an accessible route adjacent to a parking space reserved for persons with disabilities that provides for clearances appropriate for the loading and unloading of mobility devices and qualified persons with disabilities from a vehicle parked in a parking space reserved for persons with disabilities.

"Certificate of disability" means a form designed by the state disability and communication access board, and signed by a licensed practicing physician who certifies that the person is a person with a disability as defined in this section.

"Enforcement officer" means a police officer of the county, a commissioned volunteer enforcement officer of the county law enforcement agency, or a private security agent.

"International Symbol of Access" means the symbol adopted by the Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

"Issuing agency" means an agency authorized by a county to issue removable windshield placards, temporary removable windshield placards, special license plates, and identification cards pursuant to chapter 291, part III, HRS.

"Licensed practicing physician" means a doctor of medicine, naturopathy, osteopathy, or podiatry duly licensed and authorized to practice in the State of Hawaii in accordance with chapters 453, 455, 460, and 463E, HRS.

"Parking permit" means the removable windshield placard, temporary removable windshield placard, or special license plates.

"Parking space reserved for persons with disabilities" means a public or private parking space, including the access aisle, designated for the use of a person with a disability that is designed and constructed in compliance with the requirements of the federal Americans with Disabilities Act of 1990, as amended, and related rules and guidelines; and that is

marked with a sign designating the parking space as reserved for persons with disabilities.

"Person with a disability" means a person who is limited or impaired in the ability to walk, and who, as determined by a licensed practicing physician:

- (1) Cannot walk two hundred feet without stopping to rest due to a diagnosed arthritic, neurological, orthopedic, renal, oncological, or vascular condition;
- (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- (3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (4) Uses portable oxygen; or
- (5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association.

"Placard" means the removable windshield placard or temporary removable windshield placard.

"Private entity" means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied, except where a private entity is also a religious entity.

"Private parking" means a privately owned parking facility or site where invitation to the general public is expressed or implied, excluding a privately owned residential parking facility or site covered by the Fair Housing Amendments Act at 24 CFR Part 14, Subpart D, or a parking facility or site operated by a religious entity.

"Public entity" means the State or any of its counties.

"Public parking" means a parking facility or site under State or county jurisdiction.

"Religious entity" means a religious organization or entity controlled by a religious organization, including a place of worship, as defined in the Americans with Disabilities Act, at 42 U.S.C. § 12187.

"Removable windshield placard" means a two-sided, hanger-style placard issued to a person who has been certified with a disability which is permanent in accordance with section 291-51, HRS and which includes on each side:

- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a blue shield;
- (2) An identification number;
- (3) A date of expiration; and
- (4) The words "State of Hawaii".

"Sign designating the parking space as reserved for persons with disabilities" means a sign which contains:

- (1) The words, "Reserved Parking";
- (2) The International Symbol of Access;
- (3) Words indicating that the space is reserved for parking by persons with disabilities who have a valid parking permit; and
- (4) The maximum fine for parking illegally in the space.

"Special license plates" means license plates issued to a person whose disability is expected to last for at least four years as certified by a licensed practicing physician. The license plates shall display the International Symbol of Access in a color that contrasts to the background, and in the same size as the letters and numbers on the plates.

"Temporary removable windshield placard" means two-sided, hanger-style placard, issued to a person who has been certified with a temporary disability up to a period of six months and includes on each side:

- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a red shield;
- (2) An identification number;

- (3) A date of expiration;
- (4) The words "State of Hawaii"; and
- (5) The word "TEMPORARY". [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-4, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-51; 23 CFR part 655, subpart F; 23 CFR part 1235)

§11-219-5 Processing of the parking permit application. The following provisions shall govern the application process for removable windshield placards, temporary removable windshield placards, special license plates, and identification cards to "persons with disabilities":

- (1) In order to be considered for issuance of a parking permit (removable windshield placard, temporary removable windshield placard, or special license plates) and identification card, the applicant shall submit a completed application to the issuing agency. The application form shall be approved by the disability and communication access board and provided to the applicant by the issuing agency. The certificate of disability section of the form shall be completed by a licensed practicing physician. The certification of the licensed practicing physician shall be valid for no more than sixty days prior to submitting the application.
- (2) Reasons for which an application may be rejected shall include, but not be limited to the following:
 - (A) Any portion of the application or certificate of disability is illegible or incomplete, or
 - (B) There are discrepancies within any portion of the application or

- certificate of disability which may indicate fraudulent tampering.
- (3) Individuals who belong to any of the following classes do not qualify for a parking permit based solely on that status:
 - (A) Persons who have a visual impairment;
 - (B) Persons who have a mental illness;
 - (C) Persons who are old; or
 - (D) Persons who are infants.
 - (4) The applicant shall present proof of being the person named on the application form.
 - (5) The applicant shall submit the application in person unless specifically exempted for medical reasons by the certifying physician, in which case the applicant may authorize another person to submit the application in the applicant's stead. Where the certifying physician exempts the applicant from applying in person for medical reasons and the applicant authorizes another person to submit the application in the applicant's stead, proof that the applicant is the person named on the application form shall also be presented. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-5, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52, 291-56; 23 CFR part 1235)

§11-219-6 The issuance of parking permits. (a) For the applicant whose disability is expected to last for at least four years, as certified by a licensed practicing physician, the issuing agency:

- (1) Upon assurance that the vehicle is registered in the applicant's name and that the vehicle will be used primarily to transport the applicant, and upon payment by the applicant of an appropriate fee for the

special license plates as may be required by the county, shall issue special license plates and an identification card, effective for a period up to four years. The fee for the special license plates shall not be more than for regular license plates for the same vehicle class; or

- (2) May issue a removable windshield placard and an identification card, both of which shall expire four years after the date of issuance; and upon request, may issue a second removable windshield placard which shall expire on the same date as the first removable windshield placard; and
- (3) May not issue more than one removable windshield placard to the applicant who also applies for, or already has, special license plates. At no time shall more than two valid removable windshield placards be issued to a qualified person with a disability. At no time shall more than one set of valid special license plates be issued to a qualified person with a disability.

(b) For the applicant whose disability is temporary, as certified by a licensed practicing physician, the issuing agency may:

- (1) Upon payment of a [\$10] \$12 fee, issue a temporary removable windshield placard, and an identification card with the word "TEMPORARY" overprinted on the face of the card. The expiration date of this permit shall be based on the period of disability specified in the certificate of disability, and shall not exceed six months after date of issuance;
- (2) Upon request and payment of a [\$10] \$12 fee, issue a second temporary removable windshield placard which shall have the same expiration date as the first temporary removable windshield placard; and

- (3) At no time issue more than two valid temporary removable windshield placards to a qualified person with a disability. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-6, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp] (Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52; 23 CFR part 1235)

§11-219-6.5 The issuance of identification cards. (a) The issuing agency shall issue no more than one identification card when it issues a removable windshield placard, temporary removable windshield placard, or special license plates to each person with a disability.

(b) The identification card shall have the same date of expiration as the removable windshield placard, temporary removable windshield placard, or special license plates issued to the person.

(c) The identification card shall not be issued with a second removable windshield placard or second temporary removable windshield placard.

(d) The identification card shall indicate the applicable serial number of the removable windshield placard, temporary removable windshield placard, or the special license plates number.

(e) The identification card shall also indicate the applicable serial number of the second removable windshield placard or second temporary removable windshield placard, if issued. [Eff and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: SLH 2001, Act 297, §1)

§11-219-7 Replacement of lost, stolen, [or] mutilated, or confiscated parking permits. (a) To replace a parking permit or identification card that

has been lost, stolen, [or] mutilated, or confiscated, the person with a disability shall:

- (1) Submit a new completed Person with a Disability Parking Permit application which shall indicate whether the permit or identification card was lost, stolen, [or] mutilated[.] or confiscated. The replacement requirements are the same as those governing the initial application except that a new certification of disability is not required;
- (2) Surrender any remaining items relating to the current parking permit, including the identification card, portion(s) of the mutilated placard, and remaining special license plate, to the issuing agency;
- (3) For special license plates, pay the costs and fees as required by the issuing agency, but in an amount not to exceed the fee for regular license plates for the same vehicle class;

- (4) For a lost, stolen, [or] mutilated, or confiscated placard, pay [\$10] \$12 to the issuing agency.

(b) The replacement placard and identification card shall have the same expiration date as the placard(s) and identification card that was lost, stolen, [or] mutilated[.] or confiscated. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-7, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; am and comp]
(Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-7.5 Renewal of parking permits. (1) The renewal requirements are the same as those governing the initial application as provided in sections 11-219-5 and 11-219-6, including the submission of a new certification of disability, except that the required

documents and applicable fee(s) may be transacted by mail.

- (2) An application for the renewal of a removable windshield placard may be submitted up to sixty days prior to the expiration of the valid placard.
- (3) An application for the renewal of a temporary removable windshield placard may be submitted up to sixty days prior to the expiration of the valid placard.
- (4) The disability and communication access board shall notify a permittee with special license plates that the permittee must submit an application to renew the permittee's eligibility to use the special license plates. Notification shall be mailed no more than sixty days prior to the expiration date of the special license plates. [Eff and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-56; SLH 2001, Act 297, §1; 23 CFR part 1235)

Historical Note: §11-219-7.5 is based primarily on §11-219-7. [Eff 12/31/84; am and comp 4/18/94; am and comp 12/15/00]

§11-219-8 Returning of parking permits and identification cards. (a) The removable windshield placard, temporary removable windshield placard, and identification card are the property of the issuing agency and shall be returned to the issuing agency:

- (1) Upon the death of the person with a disability; or
 - (2) When the person is no longer qualified per section 291-51, HRS.
- (b) Special license plates shall be returned to the issuing agency:

- (1) Before the transfer of ownership of a vehicle to another party. The transfer of ownership for a vehicle shall not be recorded until the special license plates assigned to that vehicle have been replaced or returned to the issuing agency;
- (2) When the special license plates expire;
- (3) When the person no longer meets section 291-51, HRS requirements; or
- (4) Upon death of the permittee. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-8, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp
] (Auth: HRS §291-56)
(Imp: HRS §291-56; 23 CFR part 1235)

§11-219-9 REPEALED. [R 7/26/04]

§11-219-10 Display of permit and presentation of identification card. (a) The removable windshield placard or temporary removable windshield placard shall be displayed in a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror at all times when parking privileges pursuant to section 291-55, HRS are desired. When there is no rearview mirror, the placard shall be displayed on the dashboard.

(b) The person with a disability operating or being transported in the vehicle being parked or left standing shall carry a current identification card and present it to any enforcement officer upon request. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-10, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp
] (Auth: HRS §291-56) (Imp: HRS §291-54; 23 CFR part 1235)

§11-219-11 Nontransferability. The removable windshield placard, temporary removable windshield placard, special license plates, and identification card are nontransferable. (a) No person other than the person with a disability shall park or cause to stand a motor vehicle displaying a placard or special license plates:

- (1) In a parking space reserved for persons with disabilities, as defined in section 11-219-4, or
- (2) In order to otherwise receive parking privileges under section 291-55, HRS, except when it is used in connection with the transport of the person with a disability.

(b) A removable windshield placard, temporary removable windshield placard, or special license plates may be confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-11, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-53; 23 CFR part 1235)

§11-219-12 Penalties. Any person who knowingly falsifies an application for a removable windshield placard, temporary removable windshield placard, special license plates, and identification card, or any renewal or replacement thereof, shall be subject to suspension or revocation of the placard, special license plates, or identification card. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-12, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp] (Auth: HRS §291-56) (Imp: HRS §291-53; HRS §291-57; SLH 2001, Act 297 §1; 23 CFR part 1235)

§11-219-13 Reciprocity. The State of Hawaii, counties, and private property owners shall recognize valid removable windshield placards, temporary removable windshield placards, and special license plates which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

- (1) Utilize parking spaces reserved for persons with disabilities, or
- (2) Exercise other parking privileges afforded by the State, counties, or private property owners for the benefit of persons with disabilities. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-13, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp]
(Auth: HRS §291-56) (Imp: HRS §291-51.7; 23 CFR part 1235)

§11-219-14 Signage and marking of parking spaces and access aisles. (a) Parking spaces designated as reserved for persons with disabilities shall be identified as follows:

- (1) The parking space shall be posted with the following notice signs:
 - (A) A reserved parking sign with the dimensions and text and graphic sizes as shown on the "Typical Reserved Parking Sign for Persons with Disabilities" (Exhibit 1) and "Typical Reserved Parking Sign for Van Accessible Stall" (Exhibit 2), dated 5/29/02 at the end of this chapter and made a part of this section. The reserved parking sign shall be located at the front of each parking space reserved for persons with disabilities. The reserved parking sign shall be mounted at minimum 80 inches above the finished floor to the bottom of the

reserved parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The reserved parking sign shall be mounted on a free-standing pole, on a wall, or suspended overhead. The reserved parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space.

- (B) If the parking space is designed to accommodate a passenger van, a van-accessible sign with the dimensions and text size shown on Exhibit 2 at the end of this chapter. The van-accessible sign shall be mounted immediately below the reserved parking sign at minimum 80 inches above the finished floor to the bottom of the van-accessible sign, unless technically infeasible because of low ceiling height, in which case the van-accessible sign shall be mounted at the highest point above the finished floor.

- (2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, the parking space shall be striped on two sides of the parking space. The striping shall be four (4) inches in width and shall be clearly visible in contrast to the parking surface.

(b) Access aisles shall be identified as follows:

- (1) Van access aisles shall be posted with a no parking sign with the dimensions and text sizes shown on the "Typical Access Aisle Sign" (Exhibit 3) dated 5/29/02, at the end of this chapter and made a part of this section. The no parking sign shall be mounted at minimum 80 inches above the

finished floor to the bottom of the no parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The no parking sign shall be on a free-standing pole, on a wall, or suspended overhead. The no parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space. The no parking sign shall be placed in a location reasonably calculated to call the sign to the attention of drivers.

- (2) Access aisles, other than van access aisles, shall not require additional signage.
- (3) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, access aisles shall be outlined except on the curb side of the space and shall be diagonally striped within the outline. The outline and diagonal striping shall be four inches in width. The diagonal striping shall be at a 45 degree angle to the outline and shall be clearly visible in contrast to the parking surface.

(c) When a directional sign is needed to direct motorists to parking spaces reserved for persons with disabilities, the sign shall have a white legend on a blue background with an appropriate directional arrow.

(d) If a private or public entity provides for the towing of illegally parked vehicles, the signage shall comply with the requirements of section 290-11, HRS." [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-14, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 11-219, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

CHIYOME LEINAALA FUKINO, M.D.
Director of Health

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT 1

TYPICAL RESERVED PARKING SIGN FOR PERSONS WITH DISABILITIES
(5/29/02)

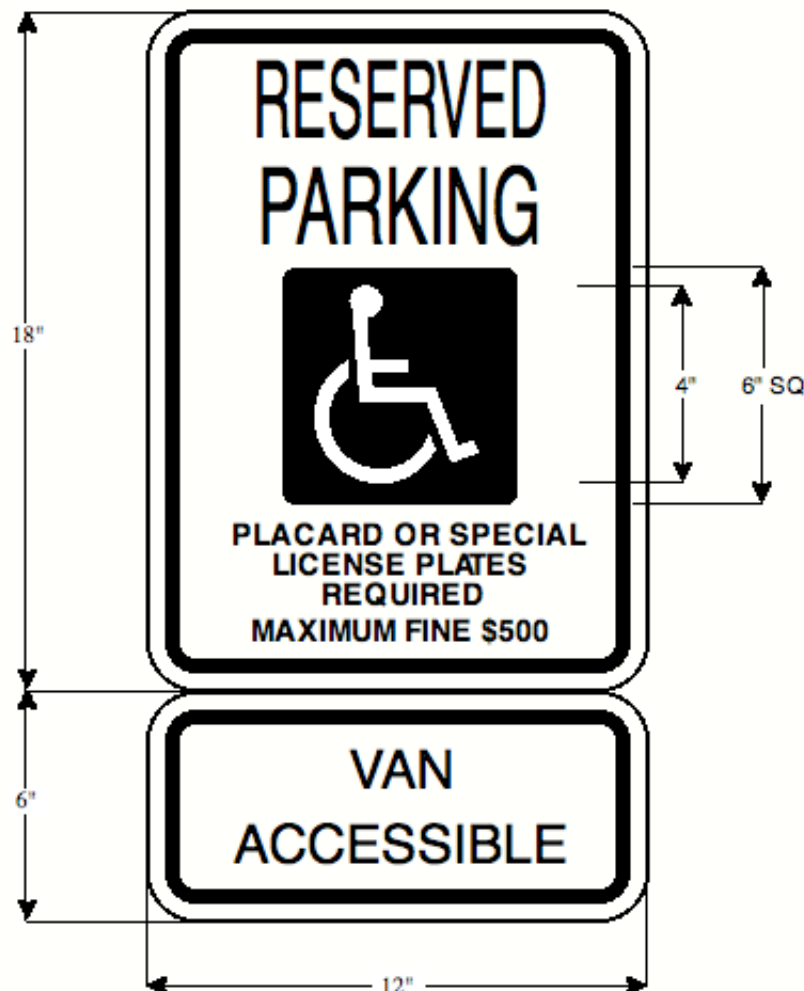


Notes:

1. It is recommended that sign comply with the uniform standard prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways (incorporated by reference in 23 CFR Part 655, Subpart F).
2. Sign lettering shall be uppercase letters of the type approved by the Federal Highway Administration.
3. Elements (text and graphic) required on sign may be placed on more than one sign. Dimensions of elements on sign are minimum requirements.

EXHIBIT 2

TYPICAL PARKING SIGN FOR VAN ACCESSIBLE STALL
(5/29/02)



Notes:

1. It is recommended that sign(s) comply with the uniform standard prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways (incorporated by reference in 23 CFR Part 655, Subpart F).
2. Sign lettering shall be uppercase letters of the type approved by the Federal Highway Administration.
3. Elements (text and graphic) required on sign may be placed on more than one sign. Dimensions of elements on sign are minimum requirements.

EXHIBIT 3

TYPICAL ACCESS AISLE SIGN
(5/29/02)



Notes:

1. It is recommended that sign comply with the uniform standard prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways (incorporated by reference in 23 CFR Part 655, Subpart F).
2. Sign lettering shall be uppercase letters of the type approved by the Federal Highway Administration.
3. Elements (text and graphic) required on sign may be placed on more than one sign. Dimensions of elements on sign are minimum requirements.